

# Plastic Films/Non-Hazardous Secondary Materials: U.S. Environmental Protection Agency Addresses Request for Non-Waste Fuel Determination



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

05/30/2019

The United States Environmental Protection Agency (“EPA”) in an April 5th letter addressed a request to determine whether certain plastic films that would be processed into a fuel (i.e., an engineered fuel product) is considered a solid waste when burned in a combustion unit.

The specific question is whether the material is a non-waste fuel product under the Non-Hazardous Secondary Materials (“NHSM”) rule.

EPA was responding to an April 5, 2019 letter from Fiberight, LLC (“Fiberight”). The company’s submission included a lab report addressing contaminant moisture along with heating value data for samples obtained over several production days.

The relevant federal regulations require that processing of NHSM meet the definition of processing in 40 C.F.R. 241.2. Further, after processing the NHSM must also meet the legitimacy criteria for fuels in 40 C.F.R. 241.3(d)(1).

The applicable emission standards under Section 129 of the Clean Air Act will apply to units that combust NHSM as fuels if they do not meet the previously referenced regulations.

The engineered fuel product is described as plastic films. It was stated to have been initially developed at a pilot plant in Lawrenceville, Virginia.

Fiberight’s stated intention is to produce the material at the CRM Advanced Waste processing Facility in Hampden, Maine. The product would be made commercially available as a substitute fuel for coal. Permits issued by the Maine Department of Environmental Protection are stated to allow the facility to receive delivery of and process approximately 180,000 tons per year of municipal solid waste.

The fuel is characterized as follows:

- Fuel/heat content of 16,448 to 18,880 Btu/lb as received,
- Moisture content of 0.4 percent,
- Chlorine content from 0.04 to 0.35 percent, Ash content no greater than 7 percent, and
- Sulfur content at or above a 1:1 stoichimetric ratio with chlorine when co-fired with coal at substitution rates up to 60 percent.

EPA concludes in its April 5th letter that the engineered fuel product would be considered a non-waste fuel under 40 C.F.R. Part 241 regulations when combusted in units designed to burn coal. However, this determination is contingent upon meeting the specifications identified in Fiberight's request.

The April 5th letter addresses:

- Background Information on EcoRight
- Processing
- Waste Evaluation
- Mechanical Separation
- Briquetter Skid
- Legitimacy Criteria
- Manage as a Valuable Commodity
- Meaningful Heat Value and Used as Fuel to Recover Energy
- Comparability of Contaminant Levels

A copy of the April 5th letter can be downloaded [here](#).